



European Network of  
Transmission System Operators  
for Electricity

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# ENTSO-E CONSULTATION PROCESS

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## 1 INTRODUCTION

ENTSO-E is required under the 3<sup>rd</sup> Energy Package to deliver a certain output, including an annual work program, draft network codes and a ten year network development plan. Although the precise nature of stakeholder involvement is not explicitly defined, ENTSO-E is foreseen to conduct extensive consultations, at early stages and in an open and transparent manner.

This document describes the principles for ENTSO-E consultation practices, which are intended to guide the consultation process with external stakeholders. ENTSO-E will review the principles for consultation regularly based on experience gained.

## 2 PRINCIPLES FOR CONSULTATION PRACTICES

### 2.1 SCOPE AND OBJECTIVES OF ENTSO-E CONSULTATION

In carrying out consultations with stakeholders ENTSO-E aims at:

- Getting expert input and views on ENTSO-E draft proposals;
- Creating buy-in for ENTSO-E final proposals;
- Providing openness and transparency, while ensuring confidentiality of information if there is a legitimate interest for such confidentiality.

Thus, there is a need for a flexible approach to consultation, i.e. the principles should be adaptable according to the significance and urgency of an issue.

### 2.2 ON WHEN TO CONSULT

On when to consult, ENTSO-E will:

- Consult with stakeholders on the key deliverables mentioned in the 3<sup>rd</sup> Package, e.g. the annual work program, the draft network codes and the ten year network development plan (as required by Article 10(1) of Regulation No 714/2009 ). In addition, consultation exercises will be conducted with regard to other issues as well, whenever appropriate with regard to the significance for stakeholders, and with different objectives depending on the subject matter.
- Depending on the nature of the work product being developed and typically for network codes, consult informally with stakeholders at an early stage in order to get ideas and elements for the preparatory work, and at a later stage, conduct a formal consultation to seek feedback on a draft proposal.
- For all stages where consultation is used, consult sufficiently early to take responses into account.
- Publish the annual work program of the areas of work for the coming year and indicating where consultation processes will be required as part of the process.

- Publish a calendar log of on-going and planned consultation processes aligned to the work program on the website.

### 2.3 ON WHOM TO CONSULT WITH

On whom to consult with, ENTSO-E will:

- Actively seek to consult any interested party directly affected by the subject matter in accordance with Article 10 (1), by making clear the target audience in the consultation document. These parties are normally the industry associations representing transmission grid users (generators, distribution networks, suppliers and traders), market participants, consumers (including industry), power exchanges, the Agency and national regulators where appropriate.
- In addition, keep the consultation open to any interested party, by announcing workshops and formal consultations through public newsletters and by appropriate web-site information. Make it possible for interested parties to subscribe to news about consultations.
- Consult at an appropriate level (national, regional and European) with regard to the subject matter.

### 2.4 ON HOW TO CONSULT

On how to consult, ENTSO-E will:

- Organize, depending on the nature of the work product being developed and typically for network codes, informal discussions with all interested stakeholders at an early stage. This may be especially important when certain stakeholders are more directly affected by an ENTSO-E code or plan than others, or when their input or data form an important basis for the ENTSO-E work.
- Seek stakeholder engagement during the development process through one or more workshops, open to all interested stakeholders and announced via a public newsletter, prior to the formal consultation.
- In addition to providing as soon as possible prior notice via the calendar posted on ENTSO-E website, allow the consulted parties adequate time to respond taking account of the complexity of the issue and any deadlines set. For workshops, at least four weeks' notice will be given. For formal consultations, ENTSO-E shall strive to allow for a 2-month consultation period; however in some cases a shorter consultation period (minimum duration of 1 month) will apply, for example if the informal consultation phase has not revealed controversial issues or if the consensus on the drafting of the consulted document has required more time, endangering the possibility to deliver it by a mandatory deadline. In this latter situation ENTSO-E shall strive to increase the use of informal consultations and to give prior notice of the

formal consultation as early as possible. The maximum consultation period will be three months, in order to ensure that progress on ENTSO-E deliverables is not unduly delayed.

- Produce reasoned proposals to be consulted upon, indicating the objectives pursued. Information on the impact of the proposals, including relevant economic analysis, will be provided to the extent that is possible. Where appropriate, the proposals consulted upon, should inform about related consultations carried out by ACER or the EC.
- Use a variety of tools in conducting consultation exercises:
  - Workshops will usually occur during the drafting process and may focus on important details of the code or plan being drafted, or have a broader scope depending on the subject matter.
  - Formal consultations take place to seek feedback on a complete draft document, code or plan. The consultation document will be made available and announced on the ENTSO-E website and stakeholders will be informed via public ENTSO-E newsletter, and in some cases via direct email. A web-based application with registered access for stakeholders will be put in place, offering electronic forms to submit contributions. The application will allow to centrally organize and archive all contributions as well as publish these contributions from stakeholders.
  - Other information forums, such as hearings, roundtables and occasionally conferences, may be used to increase topic awareness and understanding.
- Publish clear, concise and reasoned documents that are easy to read, including, where appropriate “Frequently Asked Questions” type document. Standard templates, including a summary of key questions, should be used.

## 2.5 ON HOW ENTSO-E WILL RESPOND TO CONSULTATIONS

ENTSO-E will:

- be mindful of the stakeholders’ comment and will give appropriate consideration to all responses received.
- Allow for confidential and non-confidential responses as appropriate to the subject matter, but in all cases setting out in advance clear advise on how responses will be treated.
- Make public all documents and minutes of meetings related to the consultations, in accordance with Article 10(2) of the Regulation.
- Make public all (non-confidential) responses received to formal consultations and the total number of responses received.
- Make public the final ENTSO-E position following the consultation including an evaluation of the responses received explaining the reasons why comments have or have not been taken into account, in accordance with Article 10(3) of the Regulation.
- If necessary, and where timescales permit, consult a second time if the response to the first consultation indicates significant problems or where revised proposals are radically different from the original proposals.

- Publish all ENTSO-E responses to formal consultations carried out by the European Commission and Regulators.

## 2.6 ON HOW TO TREAT CONFIDENTIAL INFORMATION

On how to treat confidential information, ENTSO-E will:

- Typically treat responses as non-confidential.
- Leave for the consulted party to decide whether the response (or parts of it) is confidential or not. Whatever the consulted party claims as confidential shall be treated as such.
- List the names of all respondents.
- Not link responses to specific respondents in the evaluation of responses.
- Carry out an evaluation of responses in a transparent way to all third parties without undermining their confidentiality rights as protected herein.

## 2.7 ON HOW ENTSO-E WILL COORDINATE CONSULTATION WITH ACER TO ENSURE ONE CONSULTATION PROCESS

On how ENTSO-E will coordinate consultation with ACER to ensure one consultation process:

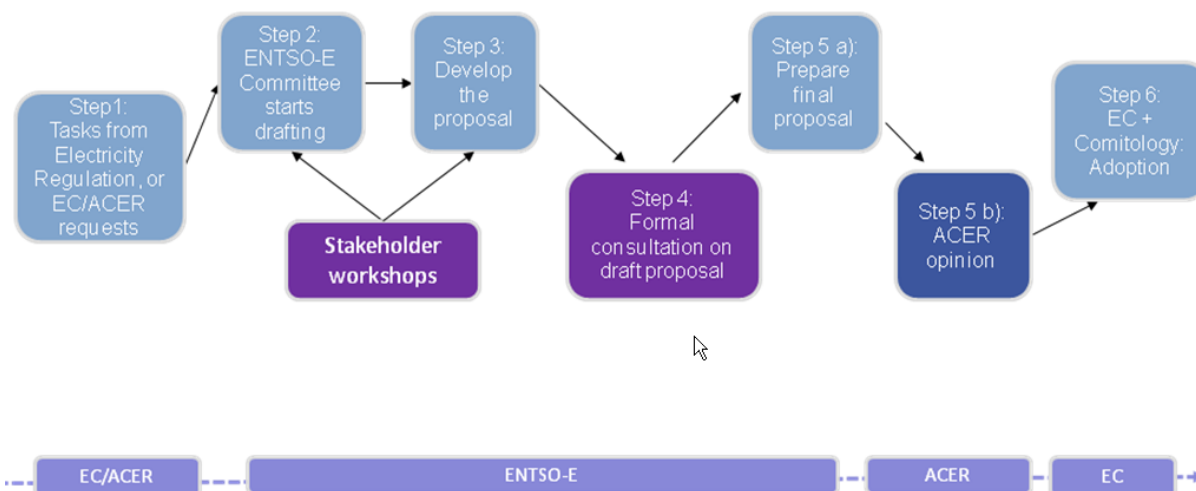
ENTSO-E will work towards a process, which, on the one hand, ensures stakeholder involvement in all important stages and, on the other hand, avoids duplication with ACER consultations. The 3rd Package's code development process makes close coordination between the EC, ENTSO-E and ACER necessary. The priorities for the development of framework guidelines and network codes will be established by the EC, and detailed priorities and timetables will be communicated to stakeholders in the respective work programs of ENTSO-E and ACER. It is an objective that the consulted stakeholders see the consultation process on a specific framework guideline and corresponding network codes as one integrated process where the input sought by ACER on principles and that by ENTSO-E on the actual codes and their practical implications, complements rather than duplicates each other.

## 3 PROCESS DESCRIPTION

Figure 1 illustrates the overall consultation process, seen as one process.

# ENTSO-E Consultation Process:

One process together with EC and ACER  
Applies to network codes and other products



**Step 1** Art. 6(1) – applicable to network codes, but not necessarily to other work products: ENTSO-E and ACER coordinate their common understanding of priorities and of realistic scopes of work and timetables. Priorities are decided by the EC (following coordination/consultation with ACER and ENTSO-E and with stakeholders). These priorities are reflected in the ACER and the ENTSO-E work programs.

**Step 2** (Art. 6(2-3) – applicable to network codes, but not necessarily to other work products): the EC requests ACER to draft framework guidelines for given areas. ACER formally consults with ENTSO-E and also with the other relevant stakeholders on the principles (for the development of network codes).

**Step 3** (Art. 6(6)): the EC requests ENTSO-E to draft network codes in line with the relevant framework guidelines (applicable to network codes but not necessarily to other work products). ENTSO-E starts drafting the network code or other document; ENTSO-E organizes workshop(s) to ensure stakeholder engagement during the drafting (further to informal, even earlier contacts with stakeholders, where appropriate because of especially direct effects or needed inputs or data).

**Step 4** (Art. 6(6)): ENTSO-E completes its draft proposal (document, network code etc.) and organizes a formal consultation on it (web-based).

**Step 5 a)** (Art 6(7-9)): ENTSO-E takes the suggestions received during the formal consultation into account and if necessary, and where the timescale permits, consult a second time if the response to the first consultation indicates significant problems or where revised proposals are substantially different from the original proposals. ENTSO-E then submits the final proposal (document, network code etc.) to ACER.

**Step 5 b)** (Art 6(7-9)): ACER assesses whether an additional consultation exercise is needed, provides a reasoned opinion to ENTSO-E, and once it is satisfied that the proposal is in line with the framework guideline, submits the document to EC with a recommendation (parts of this overall step 5 are only applicable to network codes). **Step 6:** the EC adopts the proposal (comitology), making it final and binding.